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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,518	12/28/2001	Andre Kudelski	16674-7	8685
7590 Clifford W Browing Woodard Emhardt Naughton Moriarty & McNett Bank One Center Tower 111 Monument Circle Suite 3700 Indianapolis, IN 46204-5137			EXAMINER IDOWU, OLUGBENGA O	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 07/09/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/019,518

Applicant(s)

KUDELSKI ET AL.

Examiner

OLUGBENGA O. IDOWU

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/28/2008 have been fully considered but they are not persuasive.

In response to applicants arguments in the remarks and as alluded to by the applicant, the reference, Tamer, used in the rejection teaches the EMM being only in the packet stream containing program guide data (col. 4, lines 42 – 49). Tamer in col. 4, lines 42 – col. 5, line 30 does not talk about the EMM being in other parts of the stream.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1- 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Tamer, patent number: US 6 671 881 B1.

As per claim 1, Tamer teaches System for selecting and confirming an implese purchase for pay television comprising the presentation to a user (system being used for pay per view, col. 5, lines 1 - 3), by means of a display device, of a grid of programmes, and the

selection by this user of a programme of his particular choice from the grid by means known per se (selecting programs from an EPG, col. 3, lines 30 - 59), this choice having to be confirmed in the system by an entitlement management message (EMM) (EMM, col. 4, lines 42 - 49, 54 - 57), this message being specific to an impulse purchase (entitlement for specific programs, col. 4, lines 65 - 68), characterized in that the entitlement management message (EMM) specific to an impulse purchase is exclusively contained in the data (SI) tied to the presentation of the programme grid (program guide containing subscriber entitlements, col. 3, lines 30 - 35, col. 4, lines 42 - 49).

As per claim 2, Tamer teaches System according to Claim 1, characterized in that the entitlement management message is used locally in a hardware subassembly installed at the user's premises, this hardware subassembly comprising a security module in which is stored a subscriber authorizations and subscriptions profile relating to the user (smart card apparatus 31, col. 4, lines 42 - 49, Fig. 3).

As per claim 3, Tamer teaches System according to Claim 1, characterized in that the entitlement management message specific to an impulse purchase may entail either the notification to authorize viewing, or that to veto this viewing authorization (EMM for determining programs viewers are entitled to, col. 4, lines 54 - 57).

As per claim 4, Tamer teaches System according to Claim 1, characterized in that the entitlement management message (EMM) comprises conditions defining the

authorization of viewing and conditions of cancellation of this authorization (authorization, col. 4, line 65 - 67).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **OLUGBENGA O. IDOWU** whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2623

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2623